IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13087 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PATEL GAYATRIBEN BHOGILAL

Versus

DIRECTOR OF PRIMARY EDUCATION

Appearance:

1. Special Civil Application No. 13087 of 2004

MR PARIMAL P PATEL for Petitioner No. 1

MS AC RAVAL, AGP for Respondent No. 1-2

MR MANISH J PATEL for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/12/2004

ORAL JUDGEMENT

RULE. Ms.Raval, learned AGP, waives service of notice of rule on behalf of the respondents No.1 and 2.

Mr.Patel, waives service of notice of rule on behalf of the respondent No.3. With the consent of the parties, this matter is taken up for hearing today.

By filing this petition, the petitioner has prayed that the respondents may be directed to consider the case of the petitioner in the Sports quota, as per Government Resolution dated 25-2-1980 and 1-8-1990 for the appointment to the post of Vidya Sahayak.

According to the petitioner, she has participated in Gujarat State Wrestling Championships, which was held at Ahmedabad. A certificate is issued in this regard by the Gujarat State Wrestling Association, which is at page 12 of the compilation. It is submitted by the learned advocate for the petitioner, that though the said certificate was annexed with the application for appointment to the post of "Vidya Sahayak", the respondent-authority has not considered the case of the petitioner as a sports person and no benefit is given to the petitioner as per Government Resolution dated 25-2-1980 and 1-8-1990.

As the aforesaid association was granted recognition by the Government and considering the fact that the petitioner has participated in Wrestling, Ms.Raval, learned AGP, after taking instruction from the Director of Primary Education states that claim of the petitioner for the appointment to the post of Vidya Sahayak shall be considered by giving her benefit of Government Resolutions dated 25-2-1980 and 1-8-1990 by treating the case of the petitioner as a sports person. Ms.Raval, learned AGP, has expressed doubt with regard to the genuineness of the certificate produced by the petitioner by which the petitioner is declared a wrestler and, therefore, she submitted that the Director of Primary Education may be permitted to initiate appropriate inquiry to find out whether the certificate produced by the petitioner is genuine and whether the same is tampered with in any manner.

Considering the aforesaid submission of learned AGP, it is directed that the claim of the petitioner for recruitment to the post of Vidya Sahayak in Sports Quota shall be considered in view of Government Resolution dated 25-2-1980 and 1-8-1990, after verification of the certificates produced by the petitioner. The Director of Primary Education can initiate appropriate inquiry to find out the genuineness of the certificate produced by the petitioner and appropriate decision may be taken in this regard within a period of one month from today and

ultimately, if the Director is of the opinion that the petitioner is required to be appointed on the post of Vidya Sahayak, appropriate order may be passed in this behalf latest by 15th January, 2005. It will be open for the Director of Primary Education to assign such inquiry to the concerned District Primary Education Officer, who is the appointing authority. If it is found that the certificate produced by the petitioner is genuine, the petitioner may be given relaxation as per Government Resolution dated 25-2-1980 and 1-8-1990. It is clarified that if the certificate is found to be genuine, the petitioner may be given all the benefits to which the petitioner is entitled, treating the claim of the petitioner as if it would have been considered at the relevant time.

Whatever decision taken by the Director may be communicated to the petitioner.

Accordingly, this petition is allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

Direct service is permitted.

(P.B.Majmudar,J.)
/malek